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| APPLICATION NO.  | FILING DATE | FIRST NAMED INVENTOR | ATTORNEY DOCKET NO. | CONFIRMATION NO. |
|--|-------------|----------------------|---------------------|------------------|
| 10/726,194   | 12/03/2003  | Kuniaki Arakawa      | 0505-1258P          | 3442             |
| 2292   | 7590        | 08/09/2005           | EXAMINER            |                  |
| BIRCH STEWART KOLASCH & BIRCH<br>PO BOX 747<br>FALLS CHURCH, VA 22040-0747 |             |                      | TON, ANABEL         |                  |
|  |             |                      | ART UNIT            | PAPER NUMBER     |
|  |             |                      | 2875                |                  |

DATE MAILED: 08/09/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

H.A

**Office Action Summary**

Application No.

10/726,194

Applicant(s)

ARAKAWA, KUNIAKI

Examiner

Anabel M. Ton

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 31 May 2005.
- 2a) ☒ This action is **FINAL**.                      2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-4, 7-14 and 17-20 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-4, 7-14 and 17-20 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All    b) ☐ Some \*    c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- |  |   |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)  | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)                                   | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)             |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)<br>Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____  |

**DETAILED ACTION**

***Response to Arguments***

1. Applicant's arguments with respect to claims 1-4,7-14,17-20 have been considered but are moot in view of the new ground(s) of rejection.

***Priority***

2. Applicant cannot rely upon the foreign priority papers to overcome this rejection because a translation of said papers has not been made of record in accordance with 37 CFR 1.55. See MPEP § 201.15.

***Claim Rejections - 35 USC § 103***

1. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

2. Claims 1-4,7-14,17-20 are rejected under 35 U.S.C. 103(a) as being unpatentable over Mishimagi (6,880,960).
3. Mishimagi discloses the claimed invention except for the recitation of the first lens is larger than the second lens so as to encompass a substantial part of a periphery of the second lens.

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Mishimagi discloses a rear view mirror assembly comprising a mirror housing adapted for mounting on a vehicle body (22); a mirror mounted to face rearwardly on the vehicle body (18); and a turn indicator light (27B) and a separate position light mounted in the housing (27a) in positions separate from the mirror and projecting light outwardly from the vehicle body in a forward direction (figs 2-3) said mirror housing including: a first lens for covering said turn indicator (26b) light for enabling illumination there through; and a second lens for (26a) covering said position light for enabling illumination there through, the first lens is larger than the second lens; the mirror and the lights are separate from each other (figs 3 and 8). With regards to the first lens being larger than the second lens so as to encompass a substantial part of the periphery of the second lens, it would have been obvious to one of ordinary skill in the art at the time the invention was made to do so in the device of Mishimagi since it has been held by the courts that, where the only difference between the prior art and the claims was a recitation of relative dimensions of the claimed device, and a device having the claimed relative dimensions would not perform differently than the prior art device, the claimed device was not patentably distinct from the prior art device. *In Gardner v. TEC Systems, Inc.*, 725 F.2d 1338, 220 USPQ 777 (Fed. Cir. 1984), cert. denied, 469 U.S. 830, 225 USPQ 232 (1984),

- With regards to a light body of said turn indicator light is a filament light bulb and a light body of said position light is a light emitting diode, wherein the filament light bulb is mounted at an acute angle with respect to a mirror surface, Mishimagi discloses the indicator light to be an array of

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- LED's. It would have been obvious to one of ordinary skill in the art at the time the invention was made to use a filament bulb in the device of Mishimagi, since filament bulbs are old and well known for their use in the automotive lighting arts for the purpose of providing the automotive lighting device with a light source that is cost efficient and is available in many different sizes for a desired application. (See cited art for teaching of filament bulb, Patrick and Kurth). With regards to the filament bulb being mounted at an acute angle with respect to the mirror surface, the position light of Mishimagi is at an acute angle with the mirror surface (figs 1-2);
- Said position light is kept OFF while said turn indicator light is flashing OFF and ON for direction indication (col. 6-7 lines 55-67 and lines 1-12 respectively);
  - Said position light is kept OFF direction indication while said turn indicator light is flashing OFF and ON for direction indication (col. 6-7 lines 55-67 and lines 1-12 respectively)
  - Wherein a plurality of said light emitting diodes is provided for providing illumination (figs 1-3,6,7).
  - A base member for mounting the turn indicator light and the separate position light within the mirror housing, wherein the base is disposed on a forward side of the mirror housing and the mirror is disposed on a rearward side of the mirror housing (28).

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- The base includes a wall surface disposed between the turn indicator light and the separate position light, said wall surface forming a reflector surface (39) reflecting light from the turn indicator forwardly (fig 2);

***Conclusion***

4. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. Pastrick and Kurth.

5. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**.

See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than **SIX MONTHS** from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Anabel M. Ton whose telephone number is (571) 272-2382. The examiner can normally be reached on 08:00-16:30.

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If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Sandra O'Shea can be reached on (571) 272-2378. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Anabel M Ton  
Examiner  
Art Unit 2875

AMT



Sandra O'Shea  
Supervisory Patent Examiner  
Technology Center 2800